

REMARKS

The indication of allowable subject matter with respect to claims 1-9, 12, 13 and 15-23 is appreciated.

A. Claims 27, 29 and 31 were objected to based on terminology unsupported by the specification.

Claims 27, 29 and 31 has been amended to remove the term "not" in line 7, thereby removing the matter objected to.

B. Claims 24 and 25 were rejected under 35 U.S.C. §102(b) as being anticipated by Fitzpatrick (US 5,420,936). The applicant respectfully traverses this rejection for the following reason(s).

Claims 24 and 25 have been amended to include features of claims 27 and 29, respectively. Claims 27 and 29 were not rejected under §102(b), thus the rejection of claims 24 and 25 under §102(b) is rendered moot.

C. Claim 26 was rejected under 35 U.S.C. §103(a), as rendered obvious and unpatentable, over Fitzpatrick (US 5,420,936) in view of Postlewaite (US 5,854,891). The Applicant respectfully traverses this rejection for the following reason(s).

Claim 26 has been amended to include features of claim 31. Claim 31 was not rejected on the same grounds as claim 26, thus the rejection of claim 26 is deemed moot.

D. Claims 27-30 were rejected under 35 U.S.C. §103(a), as rendered obvious and unpatentable, over Fitzpatrick (US 5,420,936) in view of O'Connor (US 5,838,306) and Lane (US 5,623,552). Claims 31 and 32 were rejected under 35 U.S.C. §103(a), as rendered obvious and unpatentable, over Fitzpatrick (US 5,420,936) in view of Postlewaite (US 5,854,891) as applied to claim 26, and in further view of O'Connor (US 5,838,306) and Lane (US 5,623,552). The Applicant respectfully traverses this rejection for the following reason(s).

Claims 24, 25 and 26 have been amended to include features of claims 27, 29 and 30, respectively, and are deemed to be patentable over the applied art for the following reason(s).

Claim 24 requires that *the kernel determines whether the fingerprint data base has been established in the information device, recognizes that the external device and the information device have been activated and performs a fingerprint registration routine when it is determined that the fingerprint data base has not been established;*

claim 25 requires that *the kernel determines whether the fingerprint data base has been established in the information device, recognizes that the external device and the information device have been activated and performs a fingerprint registration routine when it is determined that the fingerprint data base has not been established;* and

claim 26 requires that *the kernel determines whether the fingerprint data base has been established in the information device, recognizes that the external device and the information device have been activated and performs a fingerprint registration routine when it is determined that the fingerprint data base has not been established.*

The Examiner acknowledges that Fitzpatrick fails to teach the foregoing features.

Here the Examiner relies on O'Connor and Lane, suggesting that one of ordinary skill in the art would have been motivated to modify Fitzpatrick's kernel to include the routine of O'Connor, and that it would have been obvious to modify step 505 in O'Connor in view of Lane.

O'Connor fails to suggest modifying Fitzpatrick's kernel, and in fact, appears to teach away from such a modification. Teaching away from the invention is an important indication of non-obviousness. *See, e.g. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc. Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986).

O'Connor's routine is performed by the BIOS. As is well known in the art, a kernel is a part of an operating system, and a BIOS is a program a personal computer's microprocessor uses to get the computer system started after you turn it on to **boot** the computer, and also manages data flow between the computer's operating system and attached devices such as the hard disk, video adapter, keyboard, mouse, and printer.

The BIOS is a separate entity from the computer's operating system, such that it is an integral part of a computer, but the operating system may be installed/replaced anytime after the computer is manufactured.

O'Connor teaches that the security feature is encoded into the Basic Input Output System (BIOS) so that the security function cannot be defeated by loading from a floppy disk when the computer is initiated or "booted".

If the security feature of O'Connor were part of the kernel of the operating system, then it could be defeated as taught by O'Connor.

Lane fails to suggest modifying O'Connor's use of the BIOS to ensure proper security.

Accordingly, one of ordinary skill in the art would not have been motivated by


O'Connor to modify a kernel in Fitzpatrick's operating system.

Therefore, the rejection is deemed to be in error and should be withdrawn.

The examiner is respectfully requested to reconsider the application, withdraw the objections and/or rejections and pass the application to issue in view of the above amendments and/or remarks.

Should a Petition for extension of time be required with the filing of this Amendment, the Commissioner is kindly requested to treat this paragraph as such a request and is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of the incurred fee if, **and only if**, a petition for extension of time be required **and** a check of the requisite amount is not enclosed.

Respectfully submitted,


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